IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 25.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.748 of 2006

Nagavalli ... Petitioner

vs.

1. The Secretary to Government,
Prohibition & Excise Department,
Fort St. George,
Chennai-600 009.

2. The District Magistrate
and District Collector,
O/o the Collectorate,
Tiruvarur District,
Tiruvarur. ... Respondents

For Petitioner : Mr.D.Veerasekaran
For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

Petition under Article 226 of the Constitution of India for the issuance of writ of habeas corpus to call for the records relating to the second respondent, pertaining to the detention order made in C.O.C.No.13 of 2006 dated 12.07.2006 in detaining the detenu under Tamil Nadu Act 14 of 1982 as Bootlegger, quash the same, direct the respondents to produce the said detenu, namely, Mahalingam,, son of Manickam aged 36 years, who is detained at the Central Prison, Trichy, before this Court and set him at liberty.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Mahalingam, who is detained as a "'Bootlegger " as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 12.07.2006, challenges the same in this petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

The particulars furnished by the learned Additional Public Prosecutor show that the representation dated 22.07.2006 was received by the Government on 04.08.2006 and remarks were received on the same day i.e. 04.08.2006. File was submitted on 09.08.2006 and dealt with by the Under Secretary and the Deputy Secretary on the same day ie. 09.08.2006. Finally, the Minister for Prohibition and Excise passed orders on 11.08.2006. However, the Rejection letter was prepared only on 18.08.2006, sent to the detenu for service on the same day i.e.18.08.2006 and served to the detenu on 19.08.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 11.08.2006, there is no reason for taking time till 18.08.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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Gms

To

1. Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai 600 009.

2. District Magistrate and District Collector,
O/o the Collectorate,
Tiruvarur District, Tiruvarur.

3. The Superintendent,
Central Prison, Trichy.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

HCP. No.No.748 of 2006

GV(CO)
RVL 16.10.2006

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